

EXHIBIT 127

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

-----)
IN RE: NATIONAL) MDL No. 2804
PRESCRIPTION OPIATE)
LITIGATION) Case No.
-----) 1:17-MD-2804
)
THIS DOCUMENT RELATES TO) Hon. Dan A. Polster
ALL CASES)
-----)

HIGHLY CONFIDENTIAL
SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

VIDEOTAPED DEPOSITION OF
JOHN MERRITELLO
January 18, 2019

Chicago, Illinois

GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

1 there is two different models that are running that
2 would have to -- that an order would be run through
3 before it's distributed, correct?

4 MR. BENSINGER: Objection; mischaracterization.

5 BY MR. SHKOLNIK:

6 Q. I'll rephrase it.

7 A. Thanks.

8 Q. At this point in 2013 when 5.5 is
9 initiated, when an order is placed, before it's
10 received in the store, there is going to be two
11 analyses applied to the order. One is the
12 tolerance and one is the ceiling limit. Am I
13 correct?

14 MR. BENSINGER: Same objection. You can
15 answer.

16 BY THE WITNESS:

17 A. Before the order is placed, before it
18 becomes an order, and if it's a suggested order,
19 which means it's generated by the system, it will
20 take into account the ceiling value and then if
21 the -- and I'm going to use the term "user," but
22 let's say it's the pharmacist or whoever in the
23 pharmacy, operator, alters the suggested quantity
24 or has created a manual order, that would be

1 subject then to the tolerance and, again, before it
2 transmits to the ceiling.

3 Does that make sense?

4 BY MR. SHKOLNIK:

5 Q. Yes, yes.

6 A. Okay.

7 Q. So, now as a result of the 5.5, the
8 distribution center never gets an order if it
9 exceeds either tolerance or ceiling or both,
10 irrespective if it's a computer-generated one or a
11 manual one?

12 A. If an order is -- will not be generated,
13 an automated order, if it's generated, will not
14 exceed the ceiling limit and if the user enters a
15 quantity which pushes the -- that above the
16 ceiling, they get zero.

17 If there was an order for, say, two
18 bottles and that was below the ceiling but the user
19 went and put in three, they get zero. Never goes
20 out.

21 Q. That became in effect in 2013?

22 A. With this.

23 Q. 5.5?

24 MR. BENSINGER: Objection; misstatement.

1 MR. SHKOLNIK: I'll rephrase it.

2 BY MR. SHKOLNIK:

3 Q. Did that go into effect as part of 5.5,
4 whatever date 5.5 became effective?

5 MR. BENSINGER: Objection; foundation.

6 BY THE WITNESS:

7 A. That's how the ceiling works. If the
8 store forces a quantity -- when I say "force." If
9 a store manipulates a suggested quantity or enters
10 a quantity that's above the ceiling, no order is
11 placed. Zero. Whether there was one already there
12 for some number of packages and the additional
13 packages the store is requesting brings it over,
14 they get zero.

15 BY MR. SHKOLNIK:

16 Q. Wasn't there a period of time where the
17 computer would reduce it to either the ceiling or
18 the tolerance level or both and let the order
19 proceed?

20 A. Ceiling does not work that way. I'm not
21 the expert on tolerance, but I believe tolerance
22 would have -- there was a time when the tolerance
23 would actually adjust the order and then send it.

24 Q. So, when you put in the ceiling